

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 41, “Special Education,” Iowa Administrative Code.

Based on technical assistance received from the United States Department of Education, the State Board of Education adopts these amendments to clarify that enforcement actions taken by the Department are mandatory, not permissive. These amendments conform to the Department’s current practice.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the October 6, 2010, Iowa Administrative Bulletin as **ARC 9147B**. Public comments were allowed until 4:30 p.m. on November 2, 2010. Two public hearings were held, one on October 26, 2010, and the other on November 2, 2010. No written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments shall become effective March 30, 2011.

These amendments are intended to implement Iowa Code chapter 256B and 34 CFR Part 300.

The following amendments are adopted.

ITEM 1. Amend subrule 41.604(1), introductory paragraph, as follows:

41.604(1) Needs assistance. If the state determines for two consecutive years that an LEA or AEA needs assistance under 41.603(2) “b” in implementing the requirements of Part B of the Act, the state ~~may~~ shall take one or more of the following actions:

ITEM 2. Amend paragraph **41.604(2)“b”** as follows:

b. The state ~~may~~ shall take one or more of the following actions:

(1) Require the LEA or AEA to prepare a corrective action plan or improvement plan if the state determines that the LEA or AEA should be able to correct the problem within one year.

(2) Withhold, in whole or in part, any further payments to the AEA or LEA under Part B of the Act.

ITEM 3. Amend subrule 41.604(3), introductory paragraph, as follows:

41.604(3) Needs substantial intervention. Notwithstanding subrule 41.604(1) or 41.604(2), at any time that the state determines that an LEA or AEA needs substantial intervention in implementing the requirements of Part B of the Act or of this chapter or that there is a substantial failure to comply with any condition of an LEA’s eligibility or an AEA’s eligibility under Part B of the Act or this chapter, the state ~~may~~ shall take one or more of the following actions:

[Filed 1/28/11, effective 3/30/11]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.